



IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

Atlanta DIVISION

1:25-cv-00686

ICER of Arrowhead LLC 2024CM28059

Plaintiff,

VS

Trellany Driver et al

Defendant

**PETITION NOTICE FOR REMOVAL OF ACTION COMPLAINT PRELIMINARY, AND
PERMANENT INJUNCTION, TEMPORARY RESTRAINING ORDER**

1.

The petitioner respectfully petitions this court for removal of action. COMES NOW Trellany Driver to Hereby request a "Preliminary and Permanent Injunction, Temporary Restraining Order, Petition Of Removal.

Petitioner as above stated and petitions this court for removal of action from the Clayton County Magistrate Court. This petition is set forth on the following grounds; The Respondent did violate 15 USC 1692, Rule 60 of the federal Rule of Civil Procedure and having a legal duty to abort eviction pursuant to O.C.G.A 51-1-16. Civil Practice and Procedure Chapter 83.51

The Clayton County Magistrate Courts' Dispossessionary action is in violation of 14th Amendment of the U.S. Constitution with respect to Due Process of law.

The Clayton County Magistrate Courts' Dispossessionary is Unconstitutional with respect to "Due Process Clauses" 14th Amendment.

JURISDICTION

2.

Jurisdiction and venue of this court over this matter is invoked pursuant to the 28 U.S.C. A§ 1331, 1332, 1343 and 1357.

COUNT I

ILLEGAL DISPOSSESSORY

/

Defendant Trellany Driver avers that the Respondent did file an illegal dispossessionary and **Did Not** have any legal standing to file.

According to federal housing codes, a dwelling unit is considered to be in “disrepair” when it has significant damage or malfunctioning components that compromise its habitability, including issues with plumbing, electrical systems, heating/cooling, structural integrity, or safety features like smoke detectors, making it unsafe or unfit to live in.

The implied Warranty of habitability requires landlords to keep their property habitable, even if the lease does specifically require them to make repairs. The ruling Magistrate would not hear testimony regarding inhabitability and dismissed my claims out of hand

3.

Defendant Trellany Driver is the tenant at the property.

Plaintiff ICER of Arrowhead is the said owner that is over the property.

COUNT II

NATURE OF ACTION

4.

This is an action to prevent ICER of Arrowhead from conducting and enforcing an illegal **WRIT OF POSSESSION** and illegal **EVICTON**. I demand my day in court to defend against this illegal eviction with respect to the property located in Clayton County against Trellany Driver Wilcoxson and to set aside the illegal Eviction.

WHEREFORE the Petitioner Trellany Driver demands the following

relief :

1. This honorable Court remove this case from the Clayton County Magistrate Court.
2. This honorable Court afford adequate *discovery*.
3. This honorable Court provide relief such as this Court deems just and proper.
4. Enjoin and issue **INSTANTER** , an **EMERGENCY TEMPORARY**

RESTRAINING ORDER, and Injunction against the Plaintiff, Dispossession Proceedings and Writ Of Possession issued in the Clayton County Magistrate Court

VERIFICATION

(Affidavit)

The undersigned Affiant Trellany Driver by appellation does here with swear, declare and affirm that the Affiant executes this Affidavit with sincere intent and competently states the matters set forth. I the undersigned being under oath and declare under penalty of perjury, that I **do not** have an Attorney to represent me in this case. Also that the contents are true, correct and not misleading to the best of my knowledge.

Trellany Driver

Pro Se Petitioner

**MAGISTRATE COURT OF CLAYTON COUNTY
STATE OF GEORGIA**
DISPOSSESSORY PROCEEDING

 PLAINTIFF: (PLEASE PRINT NEATLY & CLEARLY)

 (Name) ICER of Arrowhead, LLC, R James Properties Inc
 (Street Address) P.O. Box 451027
 (City, State, Zip Code) Atlanta, GA 31145

 DEFENDANT: (PLEASE PRINT NEATLY & CLEARLY)

 (Name) Trellany Driver, and All Other Occupants
 (Street Address) 330 Arrowhead Blvd, Unit 25-C
 (City, State, Zip Code) Jonesboro, GA 30236

CLERK'S USE ONLY

 EFILED
 CLAYTON COUNTY, GA
 11/25/2024 11:22 AM
 Chanae Q. Clemons
 CLERK MAGISTRATE COURT

CASE NUMBER

2024CM28059

Gracy Barksdale

037945

Personally appeared the undersigned affiant who on oath says that he/she is (owner), (agent), (attorney at law) for plaintiff herein, and that defendant(s) is (are) in possession as tenant of premises at said address as stated above, in Clayton County, the property of said plaintiff. FURTHER: (circle only one)

- (a) ☒ THAT tenant fails to pay the rent which is now past due;
 (b) ☐ THAT tenant holds the premises over and beyond the term for which they were rented or leased to tenant(s);
 (c) ☐ THAT tenant is a tenant at sufferance;
 (d) ☒ THAT _____; and plaintiff is entitled to recover any and all rent that may come due until this action is finally concluded.

Plaintiff desires and has demanded possession of the premises and Defendant has failed and refused to deliver said possession.

WHEREFORE, Plaintiff DEMANDS: (circle all that apply)

- (a) possession of the premises; (b) past due rent of \$ 3,200.00; (c) rent accruing up to the date of judgment or vacancy at the rate of \$ 30.33 / 31: \$1.61 per day; (d) \$79.00 Court + \$200.00 Filing Fee + \$150.00 Late Fees

Sworn to and subscribed before me, this

 22nd day of November, 20 24
/s/ Nina Pavon

(404) 996-0886

AFFIANT

Phone # w/ Area Code

 By: _____
 Deputy Clerk/ Notary Public

SUMMONS
TO THE SHERIFF OF CLAYTON COUNTY OR HIS LAWFUL DEPUTIES

 GREETINGS: The defendant(s) is/are commanded and required to file an answer to said affidavit in writing or orally in person at the Magistrate Court of Clayton County, Jonesboro, Georgia on or before the seventh (7th) calendar day (including weekends and holidays) after the date of service of the within affidavit and summons. You may also file an answer online at odysseyefilega.com by 11:59 P.M. on or before the last day to answer this summons. EACH defendant is required to file an answer in his or her own name. If such an answer is not made, a Writ of Possession and/or Judgment may issue as provided by law.

Witness the Honorable Keisha Wright Hill, Chief Magistrate of said Court.

Jauhnisha Stowe 11/25/2024 11:22 AM

This _____ day of _____, 20 _____. Deputy Clerk

SHERIFF'S ENTRY OF SERVICE

 I have served the foregoing affidavit and summons on the Defendant(s) by delivering a copy of same ☐ Personally ☐ Notoriously (name) _____ ☒ By posting a copy to the door of the premises and depositing a copy in the U.S. Mail, First Class in an envelope properly addressed, with adequate postage thereon, said copy containing notice to the Defendant(s) to answer at the place stated in said summons.

DATE OF SERVICE

12/5/24

D/Sheriff

IMPORTANT NOTICE

 Pursuant to *Official Code of Georgia*, Section 44-7-55(c), any writ of possession issued pursuant to this article shall authorize the removal of the tenant or his or her personal property or both from the premises and permit the placement of such personal property on some portion of the landlord's property; further, it provides that after execution of the writ, such property shall be regarded as abandoned.

 Pursuant to *Code of Clayton County, Georgia*, Section 82-91 et. seq., if such personal property is not removed from the landlord's property within twenty-four (24) hours of the date and time of the execution of the writ of possession, and if the property otherwise is in violation of the county code, a citation for violation of the county code may issue against the plaintiff.

WRIT OF POSSESSION

To the Sheriff of Clayton County or his lawful deputies:

You are hereby commanded to remove said defendant together with defendant(s)' property thereon from said premises and to deliver full and quiet possession of the same to the plaintiff herein; effective 1.) Instantly or 2.) Seven days from the date of judgment; or 3.) Pursuant to the terms of a consent judgment filed herewith.

This _____ day of _____, 20 _____.

Judge, Magistrate Court of Clayton County

Revised 7/24/2024